

March 31, 2009

## UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker  
Clerk of Court

## FOR THE TENTH CIRCUIT

In re:

EDWARD ALLEN,

Petitioner.

No. 09-1083

(D.C. No. 07-CV-137-ZLW-BNB)

(D. Colo.)

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ORDER

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Before **MURPHY, McCONNELL**, and **HOLMES**, Circuit Judges.

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Edward Allen seeks a writ of mandamus ordering the district court to hear and decide several pending motions in his 42 U.S.C. § 1983 civil rights action.

We deny the writ.

“For mandamus to issue, there must be a clear right to the relief sought, a plainly defined and peremptory duty on the part of respondent to do the action in question, and no other adequate remedy available. Petitioner must also show that his right to the writ is clear and indisputable.” *Johnson v. Rogers*, 917 F.2d 1283, 1285 (10th Cir. 1990) (citations and quotations omitted). Mr. Allen does not have a clear right to the relief he seeks. There has been no inordinate delay in his case. Further, the case is a civil rights action, and as such it is not required to receive expedited consideration in the district court’s crowded docket. *Cf. id.* at 1284 (noting that habeas applications are entitled to priority consideration).

The motion to proceed in forma pauperis is GRANTED. The petition for a writ of mandamus is DENIED.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a long horizontal flourish.

ELISABETH A. SHUMAKER, Clerk